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12   UNITED STATES DISTRICT COURT

13   NORTHERN DISTRICT OF CALIFORNIA

14   SAN FRANCISCO DIVISION

15

16   ORACLE AMERICA, INC.,   Case No. 3:10-cv-03561 WHA

17   Plaintiffs,   **REPLY TO ORACLE'S RESPONSE TO
                                               GOOGLE'S STATEMENT RE DAMAGES
18   v.   PERIOD**

19   GOOGLE INC.,

              Defendant.   Dept.   Courtroom 8, 19th Fl.
20   Judge: Hon. William Alsup

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1   Google hereby submits this reply to Oracle's Response to Google's Statement re Damages

2 Period for the purpose of correcting a factual misrepresentation made by Oracle to the Court

3 related to Google's production of OpenJDK-based versions of Android.

4   In Oracle's Response, Oracle stated that "Google's production included no OpenJDK-

5 based version of Android" (Dkt. 1415 at 1:24-25). Oracle additionally stated that "Google

6 refused to produce anything that it had not released[.]" Dkt. 1415 at 1:20. As this office has

7 pointed out to Oracle's counsel, both statements misstate the status of Google's production of the

8 OpenJDK-based Android source code. Google produced the OpenJDK-based Android source

9 code by making it available for inspection beginning on November 11, 2015 pursuant to

10 paragraph 9(c) of the protective order in this case. Dkt. 66, para. 9(c). ("Any source code

11 produced in discovery shall be made available for inspection…"). There is no question that

12 Oracle's team has reviewed the code multiple times at Keker & Van Nest's offices. Several

13 weeks after inspecting the OpenJDK-based Android source code on the source code computer,

14 Oracle asked that this code be provided to Oracle on a hard drive. Because the code had not yet

15 been publicly released, Google declined to do so, and – pursuant to the parties' agreed-upon

16 protective order – continued to produce the code for inspection on the source code computer at

17 Keker & Van Nest's offices.

18   On January 8, 2016, counsel for Google notified Oracle of the above misstatements and

19 requested that Oracle correct its pleading. Counsel for Oracle declined to do so; therefore,

20 Google respectfully submits this reply in order to correct the above misstatements.

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22 Dated: January 12, 2016   KEKER & VAN NEST LLP

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24   By: */s/ Robert A. Van Nest*
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25   CHRISTA M. ANDERSON
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27   GOOGLE INC.

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REPLY TO ORACLE'S RESPONSE TO GOOGLE'S STATEMENT RE DAMAGES PERIOD
Case No. 3:10-cv-03561 WHA

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